

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

CIOFFI et al.,
Plaintiffs,

v.

GOOGLE LLC,
Defendant.

§
§
§
§
§
§
§
§

Civil Action No. 2:13-cv-103

STIPULATED FINAL JUDGMENT

A jury trial commenced in this case on February 6, 2017. The jury returned a unanimous verdict (Dkt. No. 259) finding infringement and that the claims in suit were not invalid.

Thereafter, Defendant Google, LLC moved for judgment as a matter of law and new trial on (i) invalidity under 35 U.S.C. §§ 102, 103 and 251 (Dkt. No. 292), and (ii) non-infringement, damages, patent ineligibility, and intervening rights (Dkt. No. 293).

On March 29, 2018, the Court granted Google's motion for new trial in part as to Google's § 251 invalidity defenses, instructing the parties to submit proposed findings of fact and conclusions of law, and carried Google's § 102 and 103 invalidity arguments.

On August 26, 2021, the Court issued its findings of facts and conclusions of law denying Google's invalidity defenses under 35 U.S.C. § 251 (Dkt. No. 340).

On September 3, 2021, the Court issued a memorandum and order denying Google's motion for judgment as a matter of law and new trial as to a non-infringement, damages, patent ineligibility, and intervening rights (Dkt. No. 342).

On December 6, 2021, the Court issued a memorandum and order denying Google's motion for judgment as a matter of law and new trial as to invalidity under 35 U.S.C. § 102 and 103 (Dkt. No. 344).

Pursuant to Rule 58 of the Federal Rules of Civil Procedure and in accordance with the jury's verdict, the Court's post-trial rulings and findings, and the entirety of the record available to the Court, the Court hereby **ORDERS** and **ENTERS JUDGMENT** as follows:

1. Defendant Google infringes claim 43 of U.S. Patent No. RE43,500; claims 5 and 67 of U.S. Patent No. RE43,528; and claim 49 of U.S. Patent No. RE43,529.
2. The asserted claims are not invalid under 35 U.S.C. §§ 102 and 103, pursuant to the jury verdict returned in this case.
3. The asserted claims are not invalid under § 251, pursuant to the Court's findings of fact and conclusions of law (Dkt. Nos. 340, 341).
4. The asserted claims are not ineligible for patent protection under 35 U.S.C. § 101 (*see* Dkt. Nos. 212, 226, 342).
5. Plaintiffs are hereby awarded compensatory damages against Google and shall accordingly have and recover from Google the sum of \$20,000,000 U.S. Dollars (\$20 million), which amount is a running royalty.
6. As explained in the Court's Order regarding ongoing royalties (Dkt. No. 307), Google is **ORDERED** to pay an ongoing royalty of \$0.002601 per Chrome user per month. Such royalty rate shall apply to infringing uses that occurred during the period from February 1, 2017, through the entry of this Final Judgment, as well as for all future infringing uses during the remaining life of the asserted patents.
7. Twice a year, Google shall produce a report of 7-day active users of all infringing versions of Chrome as of the 1st day of each month beginning February 1, 2017 and there forward for all ongoing and future infringing uses during the remaining life of the asserted patents (Dkt. No. 307). During the appeal of this judgment to the Federal

Circuit, Google shall deliver to Plaintiffs such reports by the last day of each month of February and August of the year. For avoidance of doubt, in 2022, the first report shall be due by February 28, 2022, and the second report shall be due by August 31, 2022.

8. Pursuant to 35 U.S.C. § 284, the Court awards Plaintiffs pre-judgment interest based on the 5-Year Treasury Note (constant maturity) rate,¹ compounded monthly, and calculated based on monthly payments. The Court also awards pre-judgment interest at the corresponding per-diem rate from February 11, 2017 (the day after the jury's verdict) through entry of this Final Judgment.
9. Pursuant to 28 U.S.C. § 1961, the Court awards Plaintiffs post-judgment interest applicable to all sums awarded herein, at the statutory rate, from the date of entry of this Final Judgment until paid.
10. Pursuant to Rule 54(d) of the Federal Rules of Civil Procedure and 28 U.S.C. § 1920, Plaintiffs are the prevailing party in this matter and are entitled to recover their costs from Google. Pursuant to the agreed Bill of Costs filed by Plaintiffs (Dkt. No. 281, Ex.B), Plaintiffs are awarded \$89,931.28 in costs.
11. All other relief requested by either party and not specifically addressed herein is **DENIED**.
12. In accordance with the parties' agreement as reflected herein, this judgment is stayed during its appeal to the Federal Circuit, except for the bi-annual reporting of 7-day active users discussed above. If this judgment becomes enforceable after appeal, Google will continue to provide bi-annual reports of 7-day active users according to the same schedule and also make corresponding

¹ Said rate further described at: <http://www.bankrate.com/rates/interest-rates/5-year-treasury-bill.aspx>.

bi-annual payments on the judgment on the same schedule, with the first payment covering past damages and ongoing royalties through to the last date reported in the first report provided after the appeal.

The Clerk is directed to **CLOSE** the above referenced case.

So ORDERED and SIGNED this 19th day of January, 2022.

AGREED TO IN SUBSTANCE AND FORM:

/s/ Eric W. Benisek

Eric W. Benisek
Jeffrey T. Lindgren
Richard C. Vasquez
Robert S. McArthur
Vasquez, Benisek & Lindgren
LLP 1550 Parkside Drive, Suite
130 Walnut Creek, CA 94596
925-627-4250
ebenisek@vblaw.com

/s/ William E. Davis III

William E. Davis III
Davis Firm PC
213 N. Fredonia St., Suite 230
Longview, Texas 857-1
903-230-9090
bdavis@davisfirm.com

/s/ Robert Christopher Bunt

Robert Christopher Bunt
Charles Ainsworth
Parker Bunt & Ainsworth
100 E. Ferguson, Suite 418
Tyler, Texas 75702
903-531-3535
rcbunt@pbatyler.com

ATTORNEYS FOR PLAINTIFFS



RODNEY GILSTRAP
UNITED STATES DISTRICT JUDGE

/s/ Darin W. Snyder

Darin W. Snyder
O'Melveny & Myers
Two Embarcadero Center, 28th Floor
San Francisco, CA 94111
415-984-8700
dsnyder@omm.com

/s/ Michael E. Jones

Michael E. Jones
Potter Minton
110 N. College Avenue, Suite 500
Tyler, Texas 75702
903-597-8311
mikejones@potterminton.com

ATTORNEYS FOR DEFENDANT